

OCA 88-2674
10 August 1988

MEMORANDUM FOR: Director of Personnel

FROM:

[REDACTED] Congressional Affairs

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SUBJECT: Committee Markup of H.R. 387 and H.R. 5102

1. The Committee on Post Office and Civil Service met today to markup two bills.

2. The first, the Federal Equitable Pay Practices Act (H.R. 387), establishes a Commission to conduct a study of Federal pay and classification systems to ensure that sex, race, and ethnicity are not among the factors considered in determining the rate of pay for an individual or position. The bill was approved with the language which will exempt the Agency from providing information to the Commission. (See Section 4(b)(2) of attached H.R. 387). There were, according to my records, no other problems with this bill. Please advise soonest if I am incorrect. The Senate has two companion bills in the form of S. 5 and S.552. There is still time.

3. The Committee also approved (at least I assume they did since they had a delay and I had to leave) H.R. 5102, the Federal Employees Health Benefits Amendments Act (Copy attached with amendments). The bill amends chapter 89 of title 5, U.S. Code, to provide for the temporary continuation of FEHBP coverage for separated employees, unmarried dependent children, and certain former spouses. Employees would be permitted to extend their health insurance coverage for up to 18 months, and their children and former spouses to extend for up to 36 months. Beneficiaries would be required to pay an amount equal to the combined employee and agency contribution to continue FEHB coverage. Additionally, the Office of Personnel Management may charge no more than an additional 2% of the total premium coverage to cover administrative expenses.

4. While OGC advised there were no legal infringements on Agency authorities, OP viewed passage with some alarm. They asked that I intervene to obtain relief in three areas:

--From the administrative burden. The opinion of OP is that additional staff would have to be hired to administer the program.

--To permit the Agency to promulgate regulations for ABP, not OPM.

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--To permit the Agency to collect the 2% administrative fee for administering the ABP.

5. In a conversation with several staff members from both the full Committee and the Subcommittee on Compensation and Benefits, I was advised they would accept no amendments to the bill but would consider language in the Committee Report to reflect the concerns over the promulgation of regulations and collection of the 2% fee. It was their belief that these provisions did not take into account agencies that administered their own programs. They listened politely while I vehemently argued the case of administrative burden but were unmoved.

6. As I informed DD/OP today, in order to get any relief in the Committee report I will need by noon Friday, 12 August the following information:

--A decision by OGC as to whether the Report language can fix our problems.

--A state of the problems and the impact of the bill if we can not promulgate our own regs and can not collect the 2% fee.

--A copy of the language we need to have included in the Committee Report. [redacted] of Legislation Division, OCA, can help with this language.

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7. Armed with this information, the staff has agreed to hear me out and consider appropriate language. I must, however, meet with them prior to mid next week when they hope to have the Report ready.

8. Please advise if you want me to seek such relief.

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cc: DDA (no att.)
DD/EB&S/OP
DD/CAP/OP
OCA/LD- [redacted]

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**FEDERAL EMPLOYEES HEALTH BENEFITS AMENDMENTS ACT OF 1988
H.R. 5102**

Report Language

This measure does not aim to interfere with agencies which administer their own health benefits programs. For instance, for reasons of national security the Central Intelligence Agency manages its own insurance program. Information concerning certain employees, dependents, former employees, former spouses, and annuitants is classified and must be treated with certain precautions. The dissemination of this information should thus be proscribed whenever possible and the Director of the CIA given the flexibility to prescribe regulations consistent with, but perhaps not identical to, those prescribed by the Office of Personnel Management and which protect sensitive intelligence information. This does not allow the CIA the right to grant persons who may be enrolled in a health benefits plan under chapter 89 of title 5 lesser substantive benefits than other Government employees, their former spouses, and their family members. Rather, the CIA may deviate from the law's requirements only when necessary to protect intelligence sources and methods.